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208 SOUTH LASALLE STREET - SUITE 1890
CHICAGO, ILLINOIS 60604-1112
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THOMAS F. MCFARLAND

January 19, 2007

By UPS overnight mail
(Monday delivery)

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

Re: Docket No. AB-878, *City of Peoria, Illinois and Village of Peoria Heights,*
Illinois -- Adverse Discontinuance -- Pioneer Industrial Railway Co.

Dear Mr. Williams:

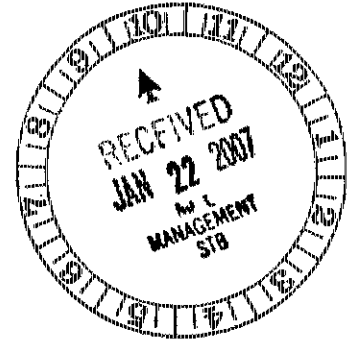
Hereby transmitted for filing in the above proceeding are the original and 10 copies of
Reply To Revised Motion To Compel Discovery.

Very truly yours,

Tom McFarland

Thomas F. McFarland
Attorney for Municipalities

TMcf:kl:enc:wp8 0\1207\trstb1



218497

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Office of Proceedings

JAN 22 2007

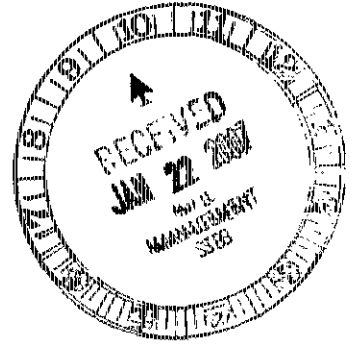
Part on
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

CITY OF PEORIA, ILLINOIS AND
VILLAGE OF PEORIA HEIGHTS,
ILLINOIS -- ADVERSE
DISCONTINUANCE -- PIONEER
INDUSTRIAL RAILWAY CO.

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)
)
)
)

DOCKET NO. AB-878



REPLY TO REVISED
MOTION TO COMPEL DISCOVERY

CITY OF PEORIA, ILLINOIS
CITY HALL
419 Fulton Street
Peoria, IL 61602

VILLAGE OF PEORIA HEIGHTS, ILLINOIS
VILLAGE HALL
4901 North Prospect Rd.
Peoria Heights, IL 61616

Applicants

ENTERED
Office of Proceedings

JAN 22 2007

Part of
Public Record

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204

Attorney for Applicants

DATE FILED: January 22, 2007

BEFORE THE
SURFACE TRANSPORTATION BOARD

CITY OF PEORIA, ILLINOIS AND)	
VILLAGE OF PEORIA HEIGHTS,)	
ILLINOIS -- ADVERSE)	DOCKET NO. AB-878
DISCONTINUANCE -- PIONEER)	
INDUSTRIAL RAILWAY CO.)	

**REPLY TO REVISED
MOTION TO COMPEL DISCOVERY**

Pursuant to Ordering Paragraph No. 6 on page 8 of the Board's decision in this and other proceedings, served January 12, 2007, the City of Peoria, Illinois (the City) and the Village of Peoria Heights, Illinois (the Village), referred to collectively as "the Cities," hereby reply to a Revised Motion to Compel Discovery (Motion) filed by Pioneer Industrial Railway Co. (PIRY) on January 17, 2007.

RESPONSES TO DISCOVERY

Discovery Request No. 13 - Identify the person(s) providing the response to each of these Requests.

Response to Discovery Request No. 13 - Mr. Stephen N. VanWinkle, Director of Public Works, City of Peoria, Illinois.

Discovery Request No. 3 - Produce all information in Your possession concerning any accidents, safety violations, or accidental release of lading involving rail shipments that have moved on the Kellar Branch since August 9, 2005.

Response to Discovery Request No. 3 - Attached to this Reply as Appendix 1 is a copy of Peoria Police Department Incident Report regarding an accident on the rail line on August 27, 2005. The Cities are not aware of any other such incidents.

Discovery Request No. 4 - Produce all information in Your possession regarding the rates, service schedules, levels of service, carloads, types, and any other information that relates to CIRY's operations over the Kellar Branch, including any contract between the City and/or the Village of Peoria Heights and CIRY for CIRY to provide rail service over the Kellar Branch or any other rail line owned or operated by the City or the Village of Peoria Heights.

Response to Discovery Request No. 4 - Objected to on the ground that the information

requested in regard to CIRY is not relevant to any issue in the adverse discontinuance of PIRY rail service, nor is it designed to lead to relevant evidence on any such issue. The issue in the adverse discontinuance of PIRY service is not whether PIRY or CIRY can provide better service on the rail line, but instead is whether PIRY rail service should be discontinued without regard to CIRY and the service CIRY has provided and can provide. Without waiving that objection, the Cities' respond that they do not have the information requested. In particular, there is no current operating contract between the Cities and CIRY. The former operating contract between them has expired.

Discovery Request No. 5 - Produce all information in Your possession concerning any discussions, contracts, negotiations, and any other document regarding rail service, either past, future, or existing, to any Shipper over any portion of the Kellar Branch or any portion of any other rail line owned or operated in whole or in part by the City or that connects with the Kellar Branch, whether or not it is owned or operated by the City.

Response to Discovery Request No. 5 - objected to on grounds that the request is overly broad as seeking all information without regard to time frame, and unduly vague as to what is meant by the phrase "rail service, either past, future, or existing to any Shipper over any portion of the Kellar Branch." Without waiving that objection, there is attached to this Reply as Appendix 2 non-privileged correspondence in the Cities' files in regard to rail service to shippers during the past three years (correspondence between the City and shippers, or by shippers about rail service).

Discovery Request No. 10 - Produce all information in Your possession concerning interchange of traffic, moving to or from Shippers heretofore served using the Kellar Branch, to and from UP, TZPR, and P&PU.

Response to Discovery Request No. 10 - same objection as objection to Discovery Request No.

4. Without waiving that objection, the Cities respond that they do not have the information requested.

Discovery Request No. 12 - Produce all information in Your possession that relates to the use by Shippers and potential Shippers of rail service on the Kellar Branch.

Response to Discovery Request No. 12 - same objection as objection to Discovery Request

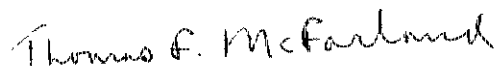
Nos. 4 and 10. Without waiving that objection, the Cities respond that CIRY, not the Cities, has the information requested.

Respectfully submitted,

CITY OF PEORIA, ILLINOIS
CITY HALL
419 Fulton Street
Peoria, IL 61602

VILLAGE OF PEORIA HEIGHTS, ILLINOIS
VILLAGE HALL
4901 North Prospect Rd.
Peoria Heights, IL 61616

Applicants



THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204

Attorney for Applicants

DATE FILED: January 22, 2007

APPENDIX 1

PEORIA POLICE DEPARTMENT INCIDENT REPORT

INCIDENT # PA 05-00026073

Original Report

RELATED INCIDENT #



INCIDENT ADDRESS: 00002 CAROLINE ST PA
PEORIA IL

INCIDENT DATE/TIME: 08/27/2005 19:42

REPORTING OFFICER: WONG, TIMOTHY P

REPORTING OFFICER:

WONG, TIMOTHY P

APPROVING SUPERVISOR: FISHER, PHILLIP SGT

COPIES TO:

Report Number...: 05 00026073 Supp Number...: 000 Report Type...: NON-CRIME

Report date.....: 08/27/2005 Report Time...: 19:42 District/Zone: 0051400

	Number	Dir	Street Name	Type	Jur	Apt.#
Address.....:	00002		CAROLINE	ST	PA	

City.....: PEORIA State.....: IL Zip.....:

Report Officer 1: PP1023 WONG,TIMOTHY P Assign Date...: 08/27/2005

UCR Status.....: 09 INACTIVE/ADMINISTRAT Status Date...: 08/27/2005

Project#.....: Rpt Status: Last Updated by DATATRAN on 08/27/2005
Record Created by DATATRAN on 08/27/2005.

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OFFENSE AREA

-----Offense 1 -----

Offense Type...: 9119 -OTHER INVESTIGATION _ Attempted X Completed

	Number	Dir	Street Name	Type	Jur	Apt.#
Address.....:	00002		CAROLINE	ST	PA	

City.....: PEORIA State.....: IL Zip.....:

District/Zone.: 0051400 UCR: NIBRS:

Begin Date.....: 08/27/2005 Begin Time.....: 19:42

Bias Motive...: 88 NONE

Location Type.: 316 TRAIN CAR

PERSON AREA

-----Person 1 -----

Person Type:

☒ Business ☐ Financial ☐ Government ☐ Religious ☐ Society ☐ Other/Unknown

Business Name.: CENTRAL ILLINOIS RAIL ROAD MNI #: 05 00106989

Height From/To.: ' ' Weigh From/To: _ Can ID Suspect(s)

City.....: PEORIA State.....: IL Zip.....:

-----Person 2 -----

Person Type:

☐ Business ☐ Financial ☐ Government ☐ Religious ☐ Society ☒ Other/Unknown

Last Name.....: BROWN First Name...: BOBBI

Middle Name.....: ALLEN Suffix.....: MNI #: 05 00106990

Date Of Birth...: 03/11/1959 Age/From/To...: 046 046 Months: 05 Rpt Age...: 46

Height From/To.: ' ' Weigh From/To: _ Can ID Suspect(s)

Eye Color.....: Hair Color....: Phone:(309) 370-5160

City.....: PEORIA State.....: IL Zip.....:

-----Person 3 -----

Person Type:

☐ Business ☐ Financial ☐ Government ☐ Religious ☐ Society ☒ Other/Unknown

Last Name.....: STOWER First Name...: THOMAS

Middle Name.....: T Suffix.....: MNI #: 05 00106991

Date Of Birth...: 03/18/1941 Age/From/To...: 064 064 Months: 05 Rpt Age...: 64

Height From/To.: ' ' Weigh From/To: _ Can ID Suspect(s)

City.....: PEORIA State.....: IL Zip.....:

=====

NARRATIVE AREA

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RESPONDED TO THE AREA OF JEFFERSON AND CAROLINE ON A RUNAWAY TRAIN CAR. WHEN I ARRIVED IN THE AREA I OBSERVED BROWN STANDING AT THE TRACK LOOKING DOWN IT, AS IF HE WERE LOOKING FOR SOMETHING. WHEN I ASKED HIM ABOUT THE TRAIN, HE RELATED THAT HE MAY HAVE A MAN DOWN AND THAT THEY DID HAVE A RAIL ROAD EMERGENCY. I FOLLOWED BROWN UNTIL WE CAME TO THE TRAIN CAR AND STOWERS WHO HAD JUMPED OFF OF THE TRAIN DURING IT'S TRAVEL FROM THE AREA OF PARK ST TO THE FOOT OF CAROLINE.

STOWERS HAD ABRASIONS TO ALL AREA'S OF HIS BODY, HOWEVER RELATED THAT HE WAS FINE. STOWERS RELATED THAT HE WAS TRYING TO KEEP THE TRAIN UNDER CONTROL AS MUCH AS POSSIBLE, HOWEVER HE COULD NOT STOP THE TRAIN CAR AND JUMPED FROM IT, BEFORE IT STRUCK ANOTHER TRAIN CAR. A CODE 2 AMBULANCE WAS CALLED FOR HIM. STOWERS SIGNED A REFUSAL AND DECLINED MEDICAL ATTENTION.

NO OTHER INJURIES WERE SUSTAINED BY ANY OTHER PARTY. NO FURTHER INFORMATION.

PEORIA POLICE DEPARTMENT INCIDENT REPORT

INCIDENT # PA 05-00026073

- Supplement 001

RELATED INCIDENT #



INCIDENT ADDRESS: CAROLINE ST

INCIDENT DATE/TIME: 08/30/2005 16:25

REPORTING OFFICER: FALLERT, WINFRED

REPORTING OFFICER:

FALLERT, WINFRED

APPROVING SUPERVISOR: COOK, DAVID L SGT

COPIES TO:

Report Number...: 05 00026073 Supp Number...: 001 Report Type...: NON-CRIME

Report date.....: 08/30/2005 Report Time...: 16:25 District/Zone: 0051400

	Number	Dir	Street Name	Type	Jur Apt.#
Address.....:			CAROLINE	ST	

Report Officer 1: PP901 FALLERT, WINFRED Assign Date...: 08/30/2005

Report Officer 2: PP736 SWAIN, DANNY W SGT Assign Date...: 08/30/2005

UCR Status.....: 09 INACTIVE/ADMINISTRAT Status Date...: 08/30/2005

Project#.....: Rpt Status: Last Updated by DATATRAM on 08/30/2005
Record Created by DATATRAM on 08/30/2005.

PERSON AREA

-----Person 1-----

Person Type:

☐ Business ☐ Financial ☐ Government ☐ Religious ☐ Society ☒ Other/Unknown

Last Name.....: DRASSLER

First Name...: STEVE

Middle Name.....:

Suffix.....:

MNI #: 05 00108547

Height From/To.: ' '

Weigh From/To:

☐ Can ID Suspect(s)

Eye Color.....:

Hair Color....:

Phone: (309) 682-0997

	Number	Dir	Street Name	Type	Jur Apt.#
Address.....:			PO BOX 10531		PA

City.....: PEORIA

State.....: IL Zip.....: 61612

-----Person 2 -----
Person Type:

☐ Business ☐ Financial ☒ Government ☐ Religious ☐ Society ☐ Other/Unknown

Business Name.: US DOTFEDERAL RAIL, ROAD A MNI #: 05 00108548

Height From/To.: ' ' Weigh From/To: Can ID Suspect(s)

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PROPERTY AREA

-----Property -----
☐ Found ☐ Burned ☐ Conterfeit ☒ Damaged ☐ Recovered ☐ Lost ☐ Stolen ☐ Otr/Unk ☐ Evidence ☐ PP

Property Code.: 749

Brand Name.: UNKNOWN

Color.: BLK

Model.....: UNK

Prop Type.:

Tag No:

Value.....: 0000005000.00

Serial No.:

Date Reported.: 08/27/2005

Caliber/Wgt.:

Recov Value.:

Condition.:

☐ Biohazard

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NARRATIVE AREA

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ON 08/30/2005 MYSELF AND SGT SWAIN WENT TO THE LOCATION OF THIS RAILROAD CRASH. WHILE THERE I SPOKE WITH DRASSLER WHO IS EMPLOYED AS AN INSPECTOR WITH THE DEPARTMENT OF TRANSPORTATION, FEDERAL RAILROAD ADMINISTRATION. DRASSLER INFORMED ME THAT THIS WAS A VERY MINOR INCIDENT THAT DID NOT EVEN REQUIRE THE RAILROAD TO INFORM THEM. THE MANDATORY REPORTING CRITERIA FOR RAILROAD CRASHES ARE DAMAGE IN EXCESS OF \$6700.00 OR INJURY TO ANY PERSON REQUIRING MEDICAL TREATMENT. THE ESTIMATED DAMAGE IN THIS CASE IS APPROXIMATELY \$5000 AND ALTHOUGH THE ENGINEER DID SUFFER MINOR INJURIES HE DID NOT SEEK MEDICAL ATTENTION. DRASSLER ADDED THAT HE WAS ONLY AT THE SCENE BECAUSE HE RECEIVED AN "ANONYMOUS" PHONE CALL INFORMING HIM OF THIS INCIDENT.

I ALSO SPOKE WITH ALLEN WHO WORKS FOR CENTRAL ILLINOIS RAILROAD. ALLEN WAS AT THE CRASH ON THE DATE THAT IT HAPPENED. ALLEN STATED TO ME THAT HE WAS ON THE TRAIN WITH STOWERS AND TWO OTHER CENTRAL ILLINOIS RAIL ROAD EMPLOYEES. HE STATED THAT THEY WERE IN THE PROCESS OF MOVING TWO RAIL CARS FROM THE AREA OF CAROLINE UP TO CARVER LUMBER IN THE PIONEER PARK AREA. HE STATED THAT THEY HAD JUST INSPECTED THE TRACKS WITH A FORD BRONCO EQUIPPED TO RUN ON THE RAILS AND DEEMED THE TRACK SAFE. THEY THEN ATTEMPTED TO USE A "SHUTTLE" LOCOMOTIVE TO PULL TWO RAIL CARS LOADED WITH LUMBER OUT NORTH. THE "SHUTTLE" LOCOMOTIVE IS CONSIDERABLY SMALLER THAN A REGULAR LOCOMOTIVE AND LACKS THE POWER OF A REGULAR LOCOMOTIVE. WHILE THEY WERE EN ROUTE THEY GOT AS FAR AS THE CROSSING OF VINE STREET AND DECIDED THAT THE TRACK WAS NOT PASSABLE DUE TO WEEDS GROWING ACROSS THE TRACKS. AS THE STEEL WHEELS OF THE LOCOMOTIVE ROLL OVER THE WEEDS THEY SQUEEZE MOISTURE OUT OF THE WEEDS AND LOOSE FRICTION BETWEEN THE WHEELS AND TRACK. THUS THEY DECIDED TO REVERSE THE TRAIN BACK TO WHERE THEY STARTED. WHILE REVERSING THEY

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HAD DEVELOPED TO MUCH MOMENTUM AND WHEN THEY ATTEMPTED TO STOP THE TRAIN THE STEEL WHEELS LOCKED UP ON THE RAILS AND CONTINUED SLIDING. STOWERS WAS THE ONLY PERSON ON THE TRAIN AT THIS TIME AS THE REST WERE FLAGGING CROSSINGS TO ENSURE THAT THERE WERE NO CARS CROSSING THE TRACKS AS THE TRAIN WAS REVERSING. STOWERS DETERMINED THAT THERE WAS NOTHING ELSE HE COULD DO IN ORDER TO STOP THE TRAIN SINCE HE HAD ALREADY PLACED THE TRAIN IN EMERGENCY BRAKING. ONCE THE TRAIN CROSSED ADAMS HE JUMPED OFF THE MOVING TRAIN CAUSING HIS MINOR INJURIES. THE TRAIN CONTINUED SOUTH AND STRUCK THREE OF THEIR RAIL CARS THAT WERE PARKED ON THE TRACKS. THIS IMPACT WITH THE THREE RAIL CARS CAUSE NO DAMAGE TO THE CARS OR THE CONTENTS OF THE CARS BUT DID CAUSE APPROXIMATELY \$5,000.00 DAMAGE TO THE RAIL BED. THE RAILS WERE PUSHED OUT AND SOME OF THE CARS WHEELS CAME TO REST BETWEEN THE RAILS ON THE RAILROAD BED. NONE OF THE CARS LEFT THEIR UPRIGHT POSITION. THEY WERE DEEMED DERAILED, HOWEVER, BECAUSE THEY LEFT THE RAIL. THEY WERE NOT OVERTURNED THOUGH. THE ONLY DAMAGE IN THIS INCIDENT WAS TO THE RAIL BED AND TRACKS WHICH ARE OWNED BY THE CITY OF PEORIA. HOWEVER CENTRAL ILLINOIS RAILROAD MAINTAINS THESE TRACKS AND BEDS AND WAS IN THE PROCESS OF REPAIRING THEM AS I WAS THERE.

APPENDIX 2

October 18, 2006

Dear Sir:

It has come to our attention that Pioneer Railcorp is petitioning the Surface Transportation Board to resume providing rail service along the Kellar Branch. Our business, O'Brien Steel Service Co. is located at the beginning of the Kellar Branch and is the largest shipper along the Kellar Branch. For the past two years (?) we have enjoyed a good working relationship with and excellent service from Central Illinois Railway. Prior to commencement of service by Central Illinois Railway we were served by Pioneer Railcorp. Our relationship with Pioneer Railcorp was contentious and a constant struggle.

O'Brien Steel Service Co. is very satisfied with our current service provider along the Kellar Branch and is strongly opposed to being forced to accept service from Pioneer Railcorp. Please do not allow Pioneer Railcorp to resume providing service to O'Brien Steel Service Co.

Sincerely,

J.P. O'Brien
President



October 16, 2006

Charles D. Nottingham, Chairman
Francis P. Mulvey, Vice Chairman
W. Douglas Buttrey, Board Member
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

EMERGENCY ACTION REQUESTED

RE: STB Docket No. FD-34917;
Also re. STB Docket No. AB-1066X and STB Docket No. AB-878

Dear Chairman Nottingham, Vice Chairman Mulvey and Board Member Buttrey:

I writing to follow up on Carver Lumber Company's Letter dated September 25, 2006, the response of Central Illinois Railroad Company ("CIRY") dated October 3, 2006, and the response of Union Pacific Railroad Company ("UP"), also dated October 3, 2006.

Frankly, Carver Lumber is frustrated that we are being ignored, and outraged that CIRY is being allowed to continue to ignore its common carrier obligations and lie to the Board. At this point, it is quite clear that Carver is not being given adequate service, and that the abuse will continue unless the Board takes prompt action.

Subsequent to our Letter, I received a phone call from Union Pacific, that was followed up by a letter, dated October 3, 2006. In that letter (a copy of which is attached), Union Pacific confirmed that it is sending CIRY normal EDI interchanges of our cars, stating plainly that "Union Pacific Railroad does notify the CIRY via electronic data interchange when cars are delivered. This was verified with our own electronic records."

Apparently unaware that UP would respond, CIRY filed a letter that same day, stating that the service failure was due to "the failure of Union Pacific Railroad Company (UP) to notify CIRY, of placement of the railcars on the interchange track as required by the governing interchange agreement."

In light of the UP letter, this appears to be an outright lie.

CIRY then has the unmitigated gall to suggest that Carver has an obligation to survey the interchange site and inform them of when cars are delivered, claiming that Carver, having been forced by CIRY to do this, has assumed an obligation as an "established custom and practice". Carver takes issue with this assertion. Carver is a customer. We have no obligation to send employees out of our facility to observe what cars are interchanged to CIRY by another railroad, and then call CIRY.

The obvious conclusion is that CIRY believes it can receive interchange from UP and be free to ignore Carver's cars, until Carver has discovered them and demands delivery, and CIRY wants the Board to sanction that "practice".

The Board will also recall that, on August 31, 2006, CIRY filed a statement with this Board claiming that it delivered cars "within 2 hours" of delivery from Union Pacific. Now they tell the Board "established custom and practice" is to ignore UP's EDI's and wait for Carver to discover the cars and call them. I note that both the current statements, and the August 31 claim were unverified, presumably CIRY believes that it can lie with impunity to the Board as long as it doesn't verify its lies.

But CIRY has yet another whopper. In its October 3 Letter, CIRY states that "The CIRY train crew performed the foregoing transportation between 3 and 5 hours after receiving a request for service from Carver for a switch." As stated in our Letter, I personally called CIRY on Friday, September 22. Perhaps CIRY meant 3-5 days? Which still ignores the fact that CIRY allowed the cars to sit for days after receiving EDI from UP, before Carver realized they were there and demanded service.

It is quite apparent that CIRY has no credibility whatsoever, so I will not dignify the unfounded allegations about PIRY "orchestrating" CIRY's service failures with a response. Suffice it to say, if CIRY was providing adequate service, why would Carver need PIRY?

Finally, I attach a newspaper clipping which shows the neglect of the Kellar Branch by CIRY. They arrogantly refuse to maintain and operate this line, regardless of the fact that this Board stayed the discontinuance.

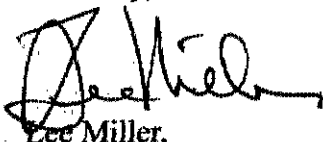
The situation is outrageous. Carver has had enough broken promises, distortions, and outright lies. In the fourteen months since PIRY's exemplary service was "replaced" by CIRY, the "service" has been abysmal. In fact, there was no service at all for half that time. Since March, CIRY has broken waybills and rerouted shipments off the Kellar Branch. This latest letter, in which they falsely blame the UP for their failure, and baldly assert that Carver, a customer, should act as their dispatcher, because we have been forced to do so by their patently inadequate "service," is a direct challenge to this Board. CIRY is making a complete mockery of the regulatory system.

Currently, I am advised that there is a loaded car destined for Carver at the TZPR/CIRY (Kellar Branch) interchange ("TTZX" #561751), and two other cars ("BNSF" #563169 and "BNSF" #561751) being held at the TZPR yard. My shipper routed these cars via

the Kellar Branch, because CIRY has seen fit to close the so-called "western connection" ("western fiasco", would be a better term), for a crossing project. The materials on these three cars are critical to our operations, and has been "in transit" for some three weeks. We need our cars delivered. The Kellar Branch is still a rail line in interstate commerce. We are, therefore, respectfully requesting that the Board enter an order, within the next 24 hours, either directing CIRY to comply with its common carrier obligations and deliver our cars via the Kellar Branch, or granting Pioneer Industrial Railway Co. ("PIRY") an Alternative Service Order so PIRY can deliver our cars. PIRY has assured me they can have the cars to us within thirty-six hours of receiving an A.S.O.

In the absence of an A.S.O. Carver Lumber Company will have no alternative but to have the materials transloaded on an emergency basis. We are almost out of material now, and our business is risking the loss of a significant amount of revenue. We desperately need your immediate assistance to utilize the Kellar Branch. CIRY is never going to provide adequate service, and we are tired of being a sacrificial lamb for the City of Peoria's bike trail fantasies.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Lee Miller', with a stylized, cursive script.

Lee Miller,
Vice President – Operations

Enclosures.
All parties of Record.



Linda A. Brandl
Vice President NCSC

October 3, 2006

Mr. Mark Booth
Ms. Debra Wolfe
Mr. Lee Miller
Carver Lumber
8700 N. University Ave
Peoria, IL 61615

Dear Mr. Booth, Ms. Wolfe and Mr. Miller:

Please reference your letter of September 25, 2006 directed to Mr. Vernon A. Williams at the Surface Transportation Board. In the letter you communicated difficulties you are experiencing with deliveries by the Central Illinois Railroad company (CIRY) to your facility in Peoria, IL, and noted a phone call you received from a Union Pacific Railroad representative which you felt was offensive.

This matter received immediate attention from Union Pacific to address the various points of concern. Our investigation revealed the following:

- The CIRY changed ownership in August of 2006, which apparently created some confusion in normal processes.
- Union Pacific Railroad does notify the CIRY via electronic data interchange when cars are delivered. This was verified with our own electronic records, and with Mr. Jack Stolarczyk, General Manager for the CIRY.
- The current communication process between the CIRY and Carver Lumber regarding pick-up and delivery has been informal, face-to-face or via telephone. With a key member of the communication chain on vacation (your Carver Lumber employee), the process broke down and cars were not delivered.

It is my understanding that the cars in question have been delivered. Ms. Candace Orr, UPRR's Manager of Shortline Development has worked with the CIRY and Carver Lumber to immediately formalize the communication process in order to avoid this situation in the future. To summarize, CIRY will notify Carver Lumber via fax when cars are available to deliver. Carver Lumber will, in turn, fax the CIRY to advise actual placement for the incoming loads and to release any empty cars available for pick up. Mr. Miller and Mr. Stolarczyk have provided their respective fax numbers to each other for this communication process.

The phone call you received from Union Pacific on September 22 was from a local employee who saw your cars sitting at interchange longer than normal, and thought he could help by informing you that you may be assessed additional fees by the CIRY for not unloading cars in a timely manner. There is no obligation for our local personnel to advise the CIRY of available cars because that information is shared automatically via electronic interchange. This employee did not intend to be brusque, and I do hope you will accept Union Pacific's apology for any curt behavior, however unintended.

Candace Orr will continue to stay in contact with both Carver Lumber and the CIRY to provide any assistance necessary to ensure that the notifications and car deliveries are working smoothly. Candace can be reached at (402) 544-5832. I also would encourage you to communicate through our National Customer Center at (800) 272-8777 regarding any issues with shipments on the Union Pacific. Additionally, your Union Pacific Marketing and Sales Representative, Ashley Stewart, can assist with the coordination of any concerns. Ashley can be reached at (800) 544-4136.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Brandl". The signature is fluid and cursive, with the first name "Linda" and last name "Brandl" clearly distinguishable.

Linda Brandl
VP - National Customer Service Center

cc: Mr. Vernon Williams - Secretary, STB
Mr. Melvin F. Clemens, STB
Ms. Candace Orr - Manager Short-line Development, UPRR
Ms. Ashley Stewart - Business Representative, UPRR

Oink, oink



Though Central Illinois Oinks is semi-sidelined for fall, the mess that is the Kellar branch merits bringing piggy off the bench. Just look at these weeds. Some are 6 feet tall.

It wouldn't be so deplorable if the brush was hidden, but Peorians can see this urban jungle through out town. Northmoor Road next to Donovan Golf Course, on Glen Avenue and Prospect Road, along with artfully sprinkled beer cans, bottles and boxes.

The city of Peoria, which owns the line, has gotten complaints but is reluctant to weed-whack because of cost and liability. The line's rail operator has borne responsibility for maintaining the right-of-way 15 feet from the center of the tracks, but Peoria and Peoria Heights want to convert Kellar into hiking trail and are seeking a discontinuance. The city says it's unclear whether the federal government requires Central Illinois Railroad to maintain the line.

OK, so Peoria won't be pursuing a nuisance complaint against itself, though it's a mite hypocritical. Could a private property owner get away with this?

Since the city plans to have community service workers pick up litter on the line, maybe it should give them some hedge trimmers, too, to send the right message to its own residents. Piggy demands it.

IN TOUCH

OPINION EDITOR MIKE BAILEY
Phone 685-3119
E-mail: mbailey@jstar.com

A COPY
NEWSPAPER



Journal Star

JOHN MCCONNELL, Publisher

Reminder: AOL will never ask you to send us your password or credit card number in an email. This message has been scanned for known viruses.

From: lakemper@mtco.com

To: mcfarland@aol.com

Subject: CIRY

Date: Tue, 17 Oct 2006 10:28 AM

Attachments: Carver_Rail_10172006[1].pdf (2888K)

Carver sent this to the Board. Lee tells me they are desperate for material, so I certainly hope the City consents this time.

1163



September 25, 2006

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

RE: Emergency Request - STB Docket No. FD-34917;
Also re. STB Docket No. AB-1066X and STB Docket No. AB-878

Dear Mr. Williams:

We are, by this letter, respectfully requesting that the Board take immediate action to address the service failures of Central Illinois Railroad Company, and grant the Alternative Service Request of Pioneer Industrial Railway Co. ("PIRY").

As the Board knows, this matter has been pending for some time. Central Illinois Railroad Company ("CIRY") is now taking retaliatory action against Carver Lumber Company for its support of PIRY's Alternative Service Request, and its refusal to submit to becoming a captive shipper.

Specifically, we are informed and believe that Union Pacific Railroad delivered four cars to the CIRY interchange at Pioneer Junction on Monday, September 18 and/or Tuesday, September 19, 2006. Because the Carver employee who generally goes out to Pioneer Junction and checks for deliveries and informs CIRY that cars have been delivered was on vacation last week, we are informed and believe that nobody informed CIRY that cars were interchanged. Apparently, CIRY does not have the normal electronic data systems to inform it of interchanges, or such system is not being used.

In any event, Lee Miller phoned our shipper inquiring about the status of the cars, and was informed they were delivered to CIRY. Mr. Miller also received a highly offensive phone call on Friday, September 22, from "Ken," a representative of Union Pacific. He told us to reject the cars or they would start charging demurrage. When Mr. Miller asked him if he had notified CIRY that the UP had dropped cars for us, he informed us that the UP has no obligation to contact CIRY when they drop cars. Mr. Miller then contacted CIRY's engineer, Mike, who informed us that he had no knowledge of any cars for Carver and that CIRY was relying upon Carver to inform CIRY if there were cars at Pioneer Junction. This situation is ridiculous and needs immediate attention and

resolution. Mr. Miller explained to Mike that we needed the cars immediately. He said he would have a crew out on Monday (today). Mr. Miller also placed a call to Ray Fuchs that has not been returned.

As of the writing of this letter, 5:30 p.m. EDT, Monday, September 25, only two of the four cars have been delivered. We do not have a schedule for delivery of the other two cars. We have no idea why CIRY only delivered two cars. To make matters worse, the cars delivered were not the two cars we urgently need.

We also received an e-mail from another of our shippers (copy attached), claiming that "CIRY is a closed line and subject to further charges." We are uncertain what this means, other than we will likely experience more trouble with our service.

Carver Lumber needed these cars last week. We reasonably believe that CIRY is either retaliating against us for bringing this matter to the Board's attention or is grossly out of touch with their responsibilities as the common carrier railroad for our rail service, or both. We are also informed and believe that CIRY does not want to serve Pioneer Park, and desires to exit the property.

Carver Lumber Company desperately needs reliable rail service, and it is not getting such from CIRY. Carver respectfully urges the Board to act immediately to grant PIRY's Alternative Service Request, and to act as expeditiously as possible to correct this situation permanently, by restoring PIRY's authority over the Kellar Branch..

Sincerely,

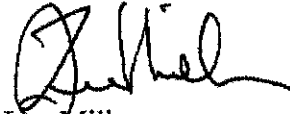
Carver Lumber Company Board of Directors



Mark Booth



Debra Wolfe



Lee Miller

Attachment.

cc: Melvin F. Clemens, STB.

Reminder: AOL will never ask you to send us your password or credit card number in an email. This message has been scanned for known viruses.

From: ROliver@ci.peoria.il.us
To: SVanWinkle@ci.peoria.il.us
Cc: mcfarland@aol.com, MShoop@ci.peoria.il.us, RRay@ci.peoria.il.us
Subject: Rail Deliveries
Date: Wed, 30 Aug 2006 1:20 PM

Steve:

It is critical that a filing be made this week stating the date a delivery to Carver was received in Peoria and the date it was delivered to Carver. Please provide that information to Tom McFarland as soon as possible.

Thanks,

Randy

Frt
1021JWW
10-22-04

October 19, 2004

**CARVER
LUMBER**8700 N. UNIVERSITY AVE.
PEORIA, ILLINOIS 61615
(309) 692-2000 • FAX (309) 693-7919Mr. Steve Van Winkle
Director of Public Works
City Hall Building
419 Fulton St. Rm. #307
Peoria, IL. 61602RE: Continued Rail Service to M.S. Carver Lumber Company
Via the Kellar Branch line and/or the new proposed Western Connection to the Union Pacific.

Dear Steve:

The purpose of this letter is to outline our company's thoughts with regards to continued rail service, specifically from the West. Our studies over the years have consistently shown that trucking our core products is no substitute for reliable, appropriately-priced rail service. For the past several years Pioneer Rail Corporation (PRY) has provided us with excellent service. While it is true that PRY's rates have increased to our maximum threshold due to reduced traffic on the line, their service to us in all respects has been nearly flawless. Any loyalties that we have to PRY are a result of this record and we would be pleased to see them allowed to continue to operate as our delivering carrier. If continued operation by PRY on the line is not possible for some set of reasons, we do not object to working with a replacement carrier, provided that the City of Peoria can assure us of continued good service at rates that are at, or hopefully below what we are currently paying. For your use, here are some examples PRY's service that we feel would need to be duplicated in order for a replacement carrier to be successful:

- An engine is kept on the line at all times, ready to be pressed into service as needed, and crews are available on short notice to operate the equipment.
- We have a designated customer service rep assigned to our account and important information is regularly exchanged regarding car locations along the route as well as intended delivery schedules. When trouble develops in the delivery chain, our service rep does a good job of bringing other carriers into the mix so problems can be solved.
- Once cars are switched out by the PPU from line-haul carriers, PRY is actively engaged in securing the car from PPU for delivery to our business. Once the handoff from PPU is complete, delivery to us normally occurs no later than the next business day. When the cars are unloaded, they are normally retrieved by PRY within 1-2 business days (occasionally 3 days), depending on their situation.
- The PRY's exact portion of the cost rate is not easy to determine, but we do know that it has more than doubled since car traffic declined with the loss of Gateway Milling from the line. We do know what the total cost to us is for various repeat deliveries and it would be our expectation that our overall cost of delivery will not increase due to any change in the delivering carrier. If car volume is dramatically increased some day, or more efficient routing can occur via a Western connection, then we would expect rates to decline in response.

Carver Lumber Company desires to be a good corporate citizen and to cooperate with the City of Peoria in its attempt to provide a long-term solution to rail service issues for the industrial park and Growth Cell II. Likewise, our company desires a certain level of assistance and cooperation from the City of Peoria in our attempt to retain reliable rail service without further increased costs or interruption. In that respect we ask that the City of Peoria provide us with some reasonable assurances that any change in delivering carriers or future construction plans will not result in problems for our company. Therefore, we kindly request that any assurances be put in the form of a letter addressed to our company and include statements:

- Assuring that the City will not allow any interruption of rail service to occur during the planned construction of the Western connection.
- That the City will not allow discontinuation of service over the Kellar line until the Western connection is fully operational.
- Detailing what specific measures the City of Peoria has at its disposal to intercede on our behalf should serious issues related to service and/or cost arise.

In closing, if the City of Peoria can satisfy what we believe to be legitimate business considerations involving service and cost issues, then our company will not oppose the introduction of an alternate delivering carrier or the subsequent rail banking of the Kellar Branch Line if it is determined to be unavoidable and in the best interest of our business community and the citizens of the Peoria.

Sincerely,



Rob Happach
President



**CARVER
LUMBER**

8700 N. UNIVERSITY AVE.
PEORIA, ILLINOIS 61615
(309) 692-2000 • FAX (309) 693-7919

1183

August 28, 2006

Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

RE: Docket No. FD-34917 (Alternative Rail Service – Central Illinois Railroad Company)

Dear Secretary Williams:

Several weeks ago Carver Lumber Company requested that the Board restore our rail service over the Kellar Branch in Peoria County, Illinois. On July 27, 2006, Pioneer Industrial Railway Co. filed an Alternative Rail Service Request, which we support. To date, Central Illinois Railroad Company continues to refuse to provide service over the Kellar Branch, despite its common carrier obligation to do so.

Our business desperately needs reliable rail service. We urge the Board to act as quickly as possible to grant Pioneer Industrial's Alternative Service request.

Sincerely yours,

Lee Miller,
Vice President – Operations

cc: All parties of record.

Copy - Randy Karger
Randy Oliver



**CARVER
LUMBER**

8700 N. UNIVERSITY AVE.
PEORIA, ILLINOIS 61615
(309) 692-2000 • FAX (309) 693-7919

July 7, 2004

(FYI)

Steve

Mr. Steve Van Winkle
Director of Public Works
City Hall Building
419 Fulton St. Rm. #307
Peoria, IL. 61602

RE: Kellar Branch Line

Please
Return

Dear Steve:

We are in receipt of your past correspondence of May 3rd and May 6th regarding the intended departure of Pioneer Rail (PRY) from the Kellar Line and your intentions to have Central Illinois Rail (CIRY) take their place. We also are in receipt of Attorney Thomas McFarland's Petition for Waiver of Abandonment Regulations. After much discussion, our company felt it prudent to make our position clear with regards to your plans to proceed with the abandonment of the Kellar Line and to make a UP connection from the West. In most respects our position has changed very little, but it has been some time since we have made our thoughts known, and conditions are not exactly as they were.

Obviously we are the only customer left on the line (if you consider O'Brien will be served from downtown) and not a large one at that. You may have a volume customer lined up for Growth Cell II, but I am unaware of it if that is so. It has always seemed to me that Peoria was far down on the list in terms of providing the kind of climate that large manufacturers desire for new plant construction, and I think you would agree that a large user is what is needed to make this project work for somebody other than the Park District and the contractor who will be building the connection. Once the connection is built, I find it hard to believe that Central Illinois Railroad Company will have much incentive to stick around, and I assume that any contract they would sign to do so would contain a financial hardship clause like the one PPU used to try and vacate the line in the past. I suppose that the same argument could be made for PRY's eventual interest if revenues on the line are so low, but their interest (I would say passion) for owning and operating the line would seem to indicate a higher level of willingness to try hard to make it work out long-term. Of course that assumes the Kellar branch exists as a functioning line.

With all of this and much more in mind, here are some of our thoughts we wish to share:

- We are not anti-trial, anti-Park District or anti-Western connection.
- We are employee-owned, pro-business and we have the interest of our shareholders to consider, first and foremost. We intend to protect those interests regardless of how it looks to certain others in the community. Certainly our customers would want us to do that, as in this case our interests are intertwined. After talking to other qualified railroad people, including the Chief Operating Officer of the CIRY, we have concluded that the loss of the Kellar line will indeed mean fewer options for those wishing to receive goods by rail, regardless of the claims made by selected UP officials to the contrary. Besides the damage it may cause to our business, can this possibly be good in terms of attracting a large user? Obviously, we are not in favor of tearing up the Kellar Branch Line.

- Having read a copy of PRY's proposal to the City of Peoria, we are at a loss to understand why it was not given more consideration, or even publicly debated. The City needs money and the Greater Peoria Area needs viable rail service with competition to keep rates down. Does the Park District hold that much sway over the process?
- Regarding the Peoria Park District's situation: They maintain that without the full width of the Kellar Line they will be unable to secure the grant funds they have been promised. Not everyone I talk to agrees with that, but even if it is true, we do not see their project as taking precedence over the other economic issues at hand, namely the likelihood of the loss of competitive, reliable rail service. We feel that PRY's offer to share the line (and to even help in the construction of whatever is needed to make that happen) should have been considered. Was it even brought before the Council? Perhaps the fact that it is not being considered should be scrutinized somewhat, regardless of the outcome of the grant or the political fallout for doing something unpopular.
- Regarding the Union Pacific Railroad: As far as we can tell, only the City itself and a handful of selected consultants seem to think that the UP is going to all of a sudden start conducting itself in ways that fit into the grand plan. We think the chances of that are remote...extremely remote. There is no end to the reports that support the industry-held belief that "the UP does what the UP wants", regardless. We think it foolish to believe that a company widely known for its (how can we say this nicely?) "independence" will be responsive to a one-car-a-week customer like ourselves, service-wise or rate-wise. Smaller, more "compassionate" railroads can't even come close on the service issues. From our own experience, the PRY comes as close as any company to being able to make that claim. They have been very responsive to our needs, even in the face of being bounced off the line.

In closing, we feel we understand that our City needs to take full advantage of Dave Leitch's efforts to secure the state (taxpayer's) money needed to fund the connection. Having another such rail connection option only increases our chances for overall success. However, we cannot support the Park District's efforts to tear out a line that virtually assures a rail option with greater choice, likely better service, and more price competition, regardless of what that means for their grant and/or the final configuration of their bike trail.

Since it appears, that for a time at least, there may be two carriers with legal authority to operate on the Kellar Line, we are expecting to be asked to choose which carrier we will route the delivery of our rail cars through. It is our intention to leave the routing "as is" until the legal and political process produces a clear and final choice. We have a business to run, and will at all cost avoid being used to help determine the final outcome of this dilemma, especially when the loss of PRY on the line will spell not only the end of a "known" (solid service to our company), but the end of the Kellar Branch Line as an important inner-city route to our business and to others that may follow.

Please be mindful that we do support a Western connection but along with the retention of the Kellar Line, with the bike trail separated by a fence and running alongside the Kellar Line where applicable.

Thank you for your consideration on this important matter for our business. We appreciate the personal efforts you have given to this project and we will honor whatever decision is reached in the final analysis.

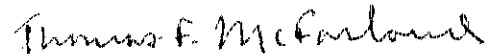
Sincerely,



Rob Happach
President

CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2007, I served the foregoing document, Reply To Revised Motion To Compel Discovery, on William A. Mullins, Esq., Baker & Miller, PLLC, 2401 Pennsylvania Avenue, N.W., Suite 300, Washington, DC 20037, by UPS overnight mail (Monday delivery), and by first-class, U.S. mail, postage prepaid, on Daniel A. LaKemper, Esq., Pioneer Industrial Railway Co., 1318 S. Johanson Road, Peoria, IL 61607 and John D. Heffner, Esq., John D. Heffner, PLLC, 1920 N Street, N.W., Suite 800, Washington, DC 20036 and



Thomas F. McFarland